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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,202	01/07/2004	Paul H. Edwards	016743-9002	5345
1131 7590 12/05/2008 MICHAEL BEST & FRIEDRICH LLP Two Prudential Plaza 180 North Stetson Avenue, Suite 2000 CHICAGO, IL 60601				
EXAMINER				
KEENAN, JAMES W				
ART UNIT		PAPER NUMBER		
3652				
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12/05/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/753,202

**Applicant(s)**

EDWARDS ET AL.

**Examiner**

James Keenan

**Art Unit**

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 47-63 is/are pending in the application.
- 4a) Of the above claim(s) 55-60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 47-50, 54 and 61 is/are rejected.
- 7) ☒ Claim(s) 51-53, 62 and 63 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. Newly submitted claims 55-60 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 47-54 and 61-63, drawn to a retractable ramp system, classified in class 414, subclass 537.
- II. Claims 55-60, drawn to a retractable ramp system, classified in class 14, subclass 69.1.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination II has separate utility such as pivoting in the deployed position. See MPEP § 806.05(d).

The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

2. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 55-60 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 47-50 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn et al (US 6,010,298) in view of Redding et al (US 5,160,236) and Beck et al (US 2001/0038787), all previously cited.

As noted in the previous Office action, Cohn shows the invention essentially as claimed, including frame 24, guide members 46, carriage 62, motor 72, ramp 28, drive assembly including drive pulley 76, drive member (belt 80), and release assembly (col. 13, lines 56-65, and cols. 19-20) for disengaging the belt from the pulley and allowing manual operation of the ramp, but does not show a bearing block movable under manual control as the means of manually operating the ramp.

Redding shows a similar ramp including a manual crank assembly to operate the ramp manually in the event of power failure (col. 4, lines 26-40), but does not explicitly state that a bearing block moves the ramp along the guide members.

Beck teaches a similar ramp with a linear bearing block 52 sliding along a guide member 56 as the means of moving the ramp between stowed and deployed positions.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Cohn with a manual control assembly to manipulate the ramp when released from the drive motor, and to have utilized a bearing block moving along a guide member as the means of moving the ramp, as collectively suggested by Redding and Beck, to allow a wheelchair occupant to manually power the ramp in the event of a power failure.

5. Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cohn et al (US 6,010,298) in view of Tremblay et al (US 5,636,399) and Grant (US 5,257,894), all previously cited.

As noted in the previous Office action, Cohn shows the invention essentially as claimed, including frame 24, guide members 46, carriage 62, motor 72, and ramp 28 with lips 108, but does not show a cutout in the ramp inboard end and a ramp flap with rollers that drops into the cutout when the ramp is deployed and forms a transition surface to the vehicle floor.

As also noted previously, Tremblay shows a similar ramp with a hinged ramp flap 46 with wheels 48 that roll along the ramp surface and form a transition surface when

the ramp is deployed, but as can best be determined, the rollers do not drop into a cutout in the inboard edge of the ramp.

Grant shows a similar ramp wherein cutouts 28 are provided in the inboard end of the ramp into which members 62b of ramp flap 60 drop into when the ramp is deployed to form a transition surface to the vehicle floor. This additionally locks the ramp in the deployed position.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Cohn by utilizing a ramp flap with rollers that ride along the ramp surface and drop into a cutout in the inboard end of the ramp in the deployed position thereof to form a transition surface to the vehicle floor, as collectively suggested by Tremblay and Grant, to provide a safe and convenient transition from the ramp to the floor while ensuring the ramp remains in the deployed position.

6. Claims 51-53, 62, and 63 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Applicant's arguments filed 8/15/08 with respect to claims 47-50 and 54 have been fully considered but they are not persuasive. Applicant makes only a generic, conclusory statement that "the prior art of record ... does not teach or suggest" the limitations of independent claim 47. Since applicant makes no assertion as to what

particular features of the claims allegedly define over the prior art, no further discussion is deemed necessary, insofar as the rejections set forth above respond to each limitation of the claims.

8. Applicant's arguments with respect to claims 61 have been considered but are moot in view of the new ground(s) of rejection.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Keenan/  
Primary Examiner  
Art Unit 3652

jwk  
12/1/08